UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,350	10/31/2000	Raymond E. Suorsa	033048-025	8639

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EXAMINER
PATEL, NITIN C

ART UNIT	PAPER NUMBER
2116	

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/699,350	SUORSA, RAYMOND E.
	Examiner	Art Unit
	Nitin C. Patel	2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 September 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-28</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-28</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>10 October 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date <u>30 September 2004</u>.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This is in responsive to RCE filed on 30 September 2004.

2.   The disclosure is objected to because of the following informalities:

3.   Co-pending application numbers are missing in specification on page 12, line 7; on page

13, line 4; on page 16, line 13; and on page 20, line 11 [currently showing blank] prior to

attorney docket numbers.

        Appropriate correction is required.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1 – 14, 16 – 26, and 28 are rejected under 35 U.S.C. 102(e) as being clearly

anticipated by Fletcher et al. [hereinafter as Fletcher], US Patent 6,009,274.

6.   As to claims 1, and 17, Fletcher discloses a method and apparatus for automatically

configuring software [ASU automatically software updating] on plurality of computing devices

[end systems] to enable said devices to perform predetermined operations [col. 2, lines 44 - 47],

comprising the steps of:

        a.   storing a model for each type of device in a database [ASU server], said model

including a description of software components installed [version level of software component

installed] on a device and operating parameter values [OS components and drivers] for the

software components [col. 5, lines 29 – 33, col. 7, lines 18 – 23, col. 10, lines 19 - 25];

      b.   installing [implementing] an agent [ASU agent] on each device that has the ability

to manipulate [determine] software components installed [current version level of software

components installed in ES [col. 7, lines 9 – 12, col. 9, lines 17 – 19, col. 9, lines 45 – 55]; and

      c.   transmitting messages [server requests] from said database [ASU server] to said

agents [ASU agent] on said devices which contain data from said model [newer version of

software] and cause said agents to manipulate operating parameters of software components [thin

smart agent software recognize a poll packet from server and to determine if newer version is

required of the advertised software component] on said devices in accordance with said data

[current version level of all software components][col. 5, lines 6 – 67, col. 6, lines 1 – 50, col. 9,

lines 17 – 19, and 45 – 55, col. 10, lines 19 - 25].

7.   As to claim 2, Fletcher including the step of modifying a model [version] stored in said

database [ASU server], and sending a message to all devices [broadcast out] associated with said

model [latest version] to cause said agents to reconfigure [update] software components in

accordance with the change in the model [version level][col. 5, lines 30 – 32, col. 7, lines col. 10,

lines 19 - 25].

8.   As to claim 3, Fletcher discloses messages transmission from server to devices in LAN

and WAN networking applications and its standards with simple networking management

protocol [SNMP] by means of a gateway [63, bridge] that provides an interface between the

database [64, server] and the devices [50-52 a to d], and further including the step of converting

messages in said gateway from a first protocol associated with the database to a second protocol

employed by said devices [col. 1, lines 29 – 40, col. 1, line 66 – 67, col. 2, lines 1 – 30, fig. 1].

9.   As to claims 4 - 5, and 19 - 20, Fletcher discloses the use of standardized communication

protocols [SNMP] for messaging between a first process means [ASU server] and second

process means [ES] with remote procedure calls [RMON, remote monitoring and managing],

therefore he teaches XML-PRC too [col. 1, lines 35 - 40].

10.   As to claim 6, Fletcher teaches the steps of recognizing a change in configuration in one

of devices, and modifying said model in accordance with the change in configuration [col. 5,

lines 29 - 31].

11.   As to claim 7, Fletcher teaches sending a message to all other [broadcast] devices of same

type as said one device, which causes the agents in said other devices to reconfigure software

components in accordance with the change in the model [latest version of one component][col.

10, lines 21 - 25].

12.   As to claim 8, Fletcher teaches the step of sending messages [multicast requests,

advertisement, broadcast] from said database [ASU server] to said devices [50,51,52] which

cause said agents in said devices to retrieve software components [request upgrade software

component] from a source external [ASU server] to said devices and install said software

components on the devices [by ASU agent][col. 9, lines 47 –52, col. 10, lines 19 – 25, fig.1].

13.   As to claims 9 - 11, and 21 - 23, Fletcher discloses the retrieval of the updated version of

the software, and to store it with required file system with category [directories] in accordance

with respect to frequency of change in component too [col. 8, lines 62- 63, col. 10, lines 19 – 51,

col.12, lines 57 – 67, col. 13, lines 1 - 10].

14.   As to claims 12 - 1 3, and 24 - 25, Fletcher discloses various types of software including

operating system software [Operating system component], and application programs [OS

component includes its application] [col. 10, lines 23 – 25, col.12, lines 57 – 67, col. 13, lines 1 -

67].

15.   As to claims 1 4, and 26, Fletcher teaches method for automatically updating software

components including data associated with the devices [unique Ids and MAC address of

devices][col. 10, lines 19 – 25, col. 11, lines 34 - 36].

16.   As to claims 16, and 28, Fletcher discloses ASU Manager running on devices that enables

agents and provides level of authority that enables [provides user with ability] them to

manipulate [to find out] operating system software installed [current version of software] on said

devices [col. 9, lines 59 – 67, col. 10, lines 13 – 18].

Claim Rejections - 35 USC § 103

17.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

18.   Claims 15 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher

et al. [hereinafter as Fletcher], US Patent 6,009,274 as applied to claims 1 – 14, 16 – 26, and 28

above, and further in view of Collins, III et al. [hereinafter as Collins], US Patent 6,138,153.

19.   As to claims 15, and 27, Fletcher discloses a method and apparatus for automatically

configuring software [ASU automatically software updating] on plurality of computing devices

[end systems] to enable said devices to perform predetermined operations [col. 2, lines 44 - 47],

comprising the steps of: storing a model for each type of device in a database [ASU server], said

model including a description of software components installed [version level of software

component installed] on a device and operating parameter values [OS components and

drivers]for the software components [col. 5, lines 29 – 33, col. 7, lines 18 – 23, col. 10, lines 19 -

25];installing [implementing] an agent [ASU agent] on each device that has the ability to

manipulate [determine] software components installed [current version level of software

components installed in ES [col. 7, lines 9 – 12, col. 9, lines 17 – 19, col. 9, lines 45 – 55]; and

transmitting messages [server requests] from said database [ASU server] to said agents [ASU

agent] on said devices which contain data from said model [newer version of software] and cause

said agents to manipulate operating parameters of software components [thin smart agent

software recognize a poll packet from server and to determine if newer version is required of the

advertised software component] on said devices in accordance with said data [current version

level of all software components][col. 5, lines 6 – 67, col. 6, lines 1 – 50, col. 9, lines 17 – 19,

and 45 – 55, col. 10, lines 19 - 25].

However, Fletcher teaches method and apparatus for automatically updating software

components on end system over a network by transmitting messages [using packets with

sequence numbering] stored in database [ASU server] with ASU protocol and acknowledgement

functionality but he does not teach explicitly that message containing a command.

Collins discloses a system and method for transferring software and data from one

computer to one or more computer through network with installation agent established at each

target machine and software package that includes the software and installation commands for

installing the software is transferred to each target machine and installed by alerting the

installation agent that software package has arrived and executing commands within the

installation agent to send an install message to software package, wherein install message cause

the software package to execute the installation commands [col. 1, lines 40 – 54, col. 2, lines 12

– 67, col. 5, lines 20 - 61].

It would have been obvious to one of ordinary skill in art, having the teachings of

Fletcher and Collins before him at the time of invention was made, to modify the packets of

messages for automatically updating software components on end system over network as

disclosed by Fletcher to include installation commands with software in the packages as taught

by Collins in order to obtain improved in speed, reliable, accurate and efficient method for

automatically updating electronic software and distribution [col. 1, lines 29 – 37].

20.   Examiner's note: Examiner has cited particular columns and line numbers in the

references as applied to the claims above for the convenience of the applicant. Although the

specified citations are representative of the teachings of the art and are applied to the specific

limitations within the individual claim, other passages and figures may apply as well. It is

respectfully requested from the applicant in preparing responses, to fully consider the references

in entirety as potentially teaching all or part of the claimed invention, as well as the context of

the passage as taught by the prior art or disclosed by the Examiner.

21.   Prior Art not relied upon:

Please refer to the references listed in attached PTO-892, which, are not relied upon for claim

rejection since these references are relevant to the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nitin C. Patel whose telephone number is 571-272-3675. The examiner can normally be reached on 7:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nitin C. Patel
December 1, 2004

A. ELAMIN
PRIMARY EXAMINER